

HOUSE BILL REPORT

HB 2699

As Reported by House Committee On: Early Learning & Human Services

Title: An act relating to providing caregivers authority to allow children placed in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

Brief Description: Providing caregivers authority to allow children placed in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

Sponsors: Representatives Kagi, Walsh, Senn, Zeiger, Roberts, Klippert, Pettigrew, Sawyer, Jinkins, Farrell, Smith, Fey, Goodman and Ormsby.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/3/14, 2/5/14 [DPS].

Brief Summary of Substitute Bill

- Provides caregivers with the authority to provide permission without prior approval of the Department of Social and Health Services or court to allow a child in their care to participate in normal childhood activities based on a certain standard.
- Specifies that the standard caregivers must use in determining whether to allow children in their care to participate in normal childhood activities is a reasonable and prudent parent standard characterized by careful and thoughtful parental decision-making intended to maintain a child's health, safety, and best interest.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Fagan, Goodman, MacEwen, Ortiz-Self, Roberts, Sawyer, Senn, Young and Zeiger.

Staff: Luke Wickham (786-7146).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Children in out-of-home care could be in various living arrangements ranging from foster care, relative care, kinship care, and guardianships. Children placed in foster care are in the legal custody of the Department of Social and Health Services (DSHS). Most guardianships allow a guardian to make decisions regarding social and extracurricular activities and allow a guardian to sign as a parent.

The DSHS established guidelines for foster child activities that foster parents are to use in determining whether to allow children in their care to participate in daily and overnight activities. For example, an out-of-state vacation requires prior DSHS approval and either parental approval or notification depending on the legal situation. These guidelines also provide direction regarding who can watch foster children when foster parents are away from home. In general, foster children must be cared for in their own foster home by a person over the age of 18 with an acceptable criminal history check or in the home of another childcare or foster care provider. Certain activities, like participation in sports, motorized activities, field trips, driving, and employment require either DSHS or parental notification or approval.

The Secretary of DSHS is required to conduct background checks for those who will or may have unsupervised access to children.

Summary of Substitute Bill:

Caregivers have the authority to provide or withhold permission without prior approval of the caseworker, the DSHS, or court to allow a child in their care to participate in normal childhood activities based on a reasonable and prudent parent standard. This permission must comply with provisions included in an existing safety plan established by the DSHS or court order. Background checks are not required for individuals who will have unsupervised access to children based on the reasonable and prudent parent standard.

Normal childhood activities include extracurricular, enrichment, and social activities, and may include overnight activities outside the direct supervision of the caregiver for periods over 24 hours and up to 72 hours.

The reasonable and prudent parent standard is the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in normal childhood activities. This standard is characterized by careful and thoughtful parental decision-making that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

Caseworkers must discuss the child's interest in and pursuit of normal childhood activities in their monthly health and safety visits and describe these in the Individual Service and Safety Plan. Caseworkers must also discuss a child's interest in and pursuit of normal childhood activities during monthly meetings with parents.

Neither the caregiver nor the DSHS may be held liable for injuries to the child that occur as a result of caregivers deciding to allow a child to participate in normal childhood activities unless the action or inaction of the caregiver or the DSHS resulting in injury constitutes willful or wanton misconduct.

Substitute Bill Compared to Original Bill:

The substitute bill provides a 72-hour limit on the overnight activities of a child outside the direct supervision of a caregiver that a caregiver can provide permission for. The substitute bill specifies that any permission provided by a caregiver must comply with an existing safety plan or court order. The substitute bill also requires that caseworkers discuss a child's interest in and pursuit of normal childhood activities during monthly meetings with parents.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There is a frustration among foster children and foster parents that there is difficulty in providing the appropriate permission to allow them to participate in normal childhood activities. Youth face many barriers in engaging in normal childhood activities. This bill empowers foster parents who often know the children in their care best. This bill gives foster youth the appropriate access to activities they should be able to participate in. This bill also gives foster parents the trust that they deserve by becoming licensed. If the prudent parent standard is in place, foster children can participate in job fairs and other activities that would improve their future. Social workers have demanding jobs and many responsibilities. This bill is a great step toward addressing normalcy issues related to foster children. This bill is a great way to help improve the normalcy for foster children. This bill does not affect the major body decisions that children may make while in foster care. Kids in foster care want to belong. Part of the difficulty regarding caring for foster children is the confusion regarding the permission that may be required for various trips and activities. There is uncertainty and fear among foster parents when making decisions related to activities for foster children. Foster children often feel like second-class citizens, as do foster parents, and this bill will work to improve that feeling. There are some concerns around some of the specifics of the bill. There should be a limit on the length of overnight activities that caregivers would provide permission for. There should be language requiring that the authority given to caregivers is consistent with existing court orders. Also, the bill could be read to require a safety plan, which was not the intention.

(Opposed) None.

Persons Testifying: Representative Kagi, prime sponsor; Jon Brumbach and Mandy Urwiler, Mockingbird Society; Jennifer Strus, Department of Social and Health Services; Laurie Lippold, Partners for Our Children; and Bob Partlow.

Persons Signed In To Testify But Not Testifying: None.